



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 181210999-9067-01]**

**RIN 0648-BI56**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Abbreviated Framework Amendment 2**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to implement management measures described in Abbreviated Framework Amendment 2 (Abbreviated Framework 2) to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region, as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would revise the commercial and recreational annual catch limits (ACLs) for vermilion snapper and black sea bass in the exclusive economic zone (EEZ) of the South Atlantic. The purpose of this proposed rule is to respond to the results of the latest stock assessments for the

species and to help achieve optimum yield (OY) for vermilion snapper and black sea bass.

**DATES:** Written comments must be received by March 6, 2019.

**ADDRESSES:** You may submit comments on the proposed rule, identified by "NOAA-NMFS-2018-0133" by any of the following methods:

- *Electronic Submission:* Submit all electronic comments via the Federal Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0133](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0133), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit all written comments to Frank Helies, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly

accessible. NMFS will accept anonymous comments (enter "N/A" in required fields if you wish to remain anonymous).

Electronic copies of Abbreviated Framework 2, which includes a Regulatory Flexibility Act (RFA) analysis and a regulatory impact review, may be obtained from [www.regulations.gov](http://www.regulations.gov) or the Southeast Regional Office Web site at <https://www.fisheries.noaa.gov/action/abbreviated-framework-amendment-2-vermilion-snapper-and-black-sea-bass>.

**FOR FURTHER INFORMATION CONTACT:** Frank Helies, NMFS SERO, telephone: 727-824-5305, email: [Frank.Helies@noaa.gov](mailto:Frank.Helies@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery in the South Atlantic region is managed under the FMP and includes vermilion snapper and black sea bass, along with other snapper-grouper species. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights described in this proposed rule are in round weight, unless otherwise specified.

### **Background**

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally

managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation.

In April 2018, Southeast Data, Assessment, and Review (SEDAR) standard assessments were completed for both South Atlantic vermilion snapper (SEDAR 55) and black sea bass (SEDAR 56). The Council's Scientific and Statistical Committee (SSC) reviewed both assessments at their May 2018 meeting, stated that they represented the best scientific information available, and provided the Council with acceptable biological catch (ABC) recommendations for the two species. Based on the results of the SEDAR 55 and SEDAR 56, NMFS determined that neither species was overfished or undergoing overfishing.

Recreational landings of snapper-grouper, including for vermilion snapper and black seas bass are monitored through the Marine Recreational Information Program (MRIP). NMFS notes that as of January 1, 2018, there was a change to the program whereby fishing effort is calculated based on a mail survey instead of through a phone survey. As a result of the changes to MRIP, the NMFS Southeast Fisheries Science Center (SEFSC) revised the vermilion snapper and black sea bass stock assessments (SEDAR 55 and 56) using the newly calibrated MRIP data. The Council's SSC reviewed the revised stock assessments at their October 2018

meeting. However, the SSC did not provide new ABC recommendations to the Council based on the updated assessments. The SSC determined that the new MRIP estimates may warrant data decisions that differ from previous SEDAR assessments, as the new estimates did not go through a data workshop. The Council's SSC requested more information from the SEFSC in the form of full output and diagnostics on the updated assessments. After the SSC receives the additional information from the SEFSC, they may consider changes to the existing ABC recommendations for vermilion snapper and black sea bass.

NMFS notes that the public comment period for this proposed rule is 15 days. As a result of delays in this rulemaking related to the recent partial Federal government shutdown and the regulatory requirement to announce the South Atlantic black sea bass recreational fishing season dates by April 1, 2019, NMFS has determined that a 15 day comment period best balances the interest in allowing the public adequate time to comment on the proposed measures while reducing public uncertainty and confusion by working to implement management measures by April 1, 2019.

#### **Management Measures Contained in This Proposed Rule**

This proposed rule would revise the commercial and recreational ACLs for South Atlantic vermilion snapper and

black sea bass based on updated information from stock assessments.

*Vermilion snapper*

For vermillion snapper, the ACL is allocated between the sectors into a current commercial ACL of 862,920 lb (391,414 kg) and a current recreational ACL of 406,080 lb (184,195 kg). These ACLs were set in Regulatory Amendment 18 to the FMP (78 FR 47574; September 5, 2013) and the current sector allocation were established in Amendment 16 to the FMP (74 FR 30964; July 29, 2009). The current sector allocation for vermillion snapper is 68 percent commercial and 32 percent recreational.

Consistent with the results of SEDAR 55 and the ABC recommendation from the SSC and subsequently accepted by the Council, this proposed rule would increase the commercial and recreational ACLs for vermillion snapper. For the commercial sector, the ACL is further divided into two 6-month seasons and the ACL (commercial quota) is equally divided between the seasons. Any unused quota from the first season is carried over into the second season. Any unused quota from the second season is not carried over into the next fishing year. The two commercial seasons are January through June and July through December each year.

The commercial seasonal quotas would be set at 483,658 lb (219,384 kg), gutted weight; 536,860 lb (243,516 kg) for the 2019 fishing year; 452,721 lb (205,351 kg), gutted weight; 502,520 lb (227,939 kg) for the 2020 fishing year; 431,279 lb (195,625 kg), gutted weight; 478,720 lb (217,144 kg) for the 2021 fishing year; 417,189 lb (189,234 kg), gutted weight; 463,080 lb (210,050 kg) for the 2022 fishing year; and 409,225 lb (185,621 kg), gutted weight; 454,240 lb (206,040 kg) for the 2023 and subsequent fishing years.

The recreational ACL would be set at 455,207 lb (206,478 kg), gutted weight, 505,280 lb (229,191 kg) for the 2019 fishing year; 426,090 lb (193,271 kg), gutted weight, 472,960 lb (214,531 kg) for the 2020 fishing year; 405,910 lb (184,118 kg), gutted weight, 450,560 lb (204,552 kg) for the 2021 fishing year; 392,649 lb (178,103 kg), gutted weight, 435,840 lb (197,694 kg) for the 2022 fishing year; and 385,520 lb (174,869 kg), gutted weight, 427,520 lb (193,920 kg) for the 2023 and subsequent fishing years.

The proposed ACLs are consistent with the Council SSC's ABC recommendation, and this proposed rule would not change the sector allocations.

The vermilion snapper commercial sector has experienced in-season fishing closures every year since 2009 regardless of the amount of the commercial quota. If

the catch rates of vermilion snapper in the commercial sector continue as expected, the proposed seasonal quotas would still be expected to result in in-season closures during each of the two commercial seasons as a result of the seasonal quotas being reached. However, the proposed increase to the commercial ACL is expected to extend the commercial fishing season up to 48 days over the entire 2019 fishing year. The projected increase in the number of days for the commercial season is expected to then progressively decrease after 2019 corresponding with the proposed declining ACL values after 2019. For example, the proposed commercial ACL is expected to result in up to 5 additional fishing days in the 2023 fishing year. The recreational sector has not experienced a fishing season closure as a result of reaching its ACL, and if the proposed recreational ACLs are implemented, it is expected that the recreational sector will continue to remain open for the entire fishing year and not close as a result of the recreational ACLs being reached.

#### *Black sea bass*

The current black sea bass commercial and recreational ACLs were implemented in 2013 through Regulatory Amendment 19 to the FMP (78 FR 58249; September 23, 2013). The



current commercial ACL is 755,274 lb (342,587 kg) and the recreational ACL is 1,001,176 lb (454,126 kg) .

The ACLs are based on the sector allocation ratio developed by the Council for black sea bass (43 percent commercial and 57 percent recreational) as established in Amendment 13C to the FMP (71 FR 55096; October 23, 2006) .

Consistent with the results of SEDAR 56 and the ABC recommendation from the SSC accepted by the Council, this proposed rule would reduce the commercial and recreational ACLs for black sea bass. The proposed commercial ACL would be 276,949 lb (125,622 kg), gutted weight; 326,800 lb (148,234 kg) for the 2019 fishing year; 243,788 lb (110,580 kg), gutted weight; 287,670 lb (130,485 kg) for the 2020 fishing year; and 234,314 lb (106,283 kg), gutted weight; 276,490 lb (125,414 kg) for the 2021 and subsequent fishing years.

The fishing year for the black sea bass recreational sector is from April 1 through March 31, and the recreational ACLs are therefore described as yearly combinations. If implemented, the proposed black sea bass recreational ACL would not take effect until during the 2019-2020 fishing year, which begins on April 1, 2019. The current recreational ACLs are 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg), which will remain

in place for the 2018-2019 fishing year. The proposed recreational ACLs are 367,119 lb (166,522 kg), gutted weight, 433,200 lb (196,496 kg) for the 2019-2020 fishing year; 323,161 lb (146,583 kg), gutted weight, 381,330 lb (172,968 kg) for the 2020-2021 fishing year; and 310,602 lb (140,887 kg), gutted weight, 366,510 lb (166,246 kg) for the 2021-2022 and subsequent fishing years.

The proposed sector ACLs are consistent with the Council SSC's ABC recommendation, and this proposed rule would not change the current sector allocations.

Since 2015, black sea bass total landings have not exceeded 40 percent of the current combined commercial and recreational ACLs. The last fishing season closures for the commercial and recreational sectors occurred in 2012 and 2011, respectively. Based on the projected future commercial landings of black sea bass, for the 2019 fishing year, the proposed commercial ACL is not expected to be exceeded and would therefore not result in an in-season closure as a result of the commercial ACL being reached. However, in the 2020 and 2021 fishing years, commercial in-season closures are projected to occur on November 26 and November 5, respectively. Since 2015, the trend in recreational landings of black sea bass has been downward. The proposed recreational ACLs are not expected to be

exceeded and are not expected to result in in-season closures as a result of the sector ACL being reached. Additionally, if the black sea bass stock experiences a year of high recruitment, then these proposed reductions in ACLs would be expected to constrain future harvest and minimize the risk of overfishing.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Abbreviated Framework 2, the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under EO 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

A description of the proposed rule, why it is being considered, and the objectives of, and legal basis for this proposed rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

This proposed rule would increase the commercial and recreational ACLs for vermilion snapper. This proposed rule would reduce the commercial and recreational ACLs for black sea bass. Because the Regulatory Flexibility Act (RFA) does not apply to recreational anglers, only the effects on commercial vessels were analyzed. Any impact to the profitability or competitiveness of for-hire fishing businesses would be the result of changes in for-hire angler demand and would, therefore, be indirect in nature; the RFA does not consider indirect impacts.

The proposed action would directly affect federally permitted commercial fishermen fishing for South Atlantic vermilion snapper and black sea bass. For RFA purposes

only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR § 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

As of July 25, 2018, there were 538 valid or renewable Federal South Atlantic snapper-grouper unlimited permits, 109 valid or renewable 225-lb trip limited permits, and 32 black sea bass pot endorsements. From 2013 through 2017, an average of 208 vessels (all gear) per year landed vermilion snapper in the South Atlantic. These vessels, combined, averaged 1,766 trips per year in the South Atlantic on which vermilion snapper were landed and 4,578 trips in the South Atlantic that did not land any vermilion snapper or trips that were taken outside the South Atlantic regardless of the species caught. The average annual total dockside revenues were approximately \$3.03 million from vermilion snapper, \$2.79 million from other species co-harvested with vermilion snapper (on the same trips), and \$7.30 million from trips in the South Atlantic on which no vermilion

snapper were harvested or trips that occurred outside the South Atlantic regardless of the species caught. The average annual total revenue from all species landed by vessels harvesting vermilion snapper in the South Atlantic was approximately \$13.12 million, or \$63,000 per vessel. These vessels generated approximately 23.1 percent of their total fishing revenues from vermilion snapper. Of the 208 vessels that landed vermilion snapper, 123 vessels used bandit gear, and they accounted for about 84 percent of all vermilion snapper landings. These 123 vessels generated dockside revenues of approximately \$2.56 million from vermilion snapper, \$2.14 million from other species co-harvested with vermilion snapper (on the same trips), and \$8.88 million from trips in the South Atlantic on which no vermilion snapper were harvested or trips that occurred outside the South Atlantic regardless of the species caught. The average annual total revenue from all species landed by these vessels was approximately \$13.58 million, or \$110,000 per vessel. These vessels generated approximately 18.9 percent of their total fishing revenues from vermilion snapper.

From 2013 through 2017, an average of 214 vessels (all gear) per year landed black sea bass in the South Atlantic. These vessels, combined, averaged 2,089 trips per year in

the South Atlantic on which black sea bass were landed and 3,985 trips in the South Atlantic that did not land any black sea bass or trips that were taken outside the South Atlantic regardless of the species caught. The average annual total dockside revenues were approximately \$0.96 million from black sea bass, \$3.82 million from other species co-harvested with black sea bass (on the same trips), and \$7.58 million from trips in the South Atlantic on which no black sea bass were harvested or trips that occurred outside the South Atlantic regardless of the species caught. The average annual total revenue from all species landed by vessels harvesting black sea bass in the South Atlantic was approximately \$12.36 million, or \$58,000 per vessel. These vessels generated approximately 7.8 percent of their total fishing revenues from black sea bass. Black sea bass pots are a historically important gear type for harvesting black sea bass. This particular component of the black sea bass commercial sector is currently managed under an endorsement system. At the start of the program in 2012, 32 endorsements were issued to commercial vessels with snapper-grouper permits, but not all vessels harvest black sea bass in any single year. Of the 214 vessels that landed black sea bass, 23 used pots and accounted for about half of all black sea bass

landings. These vessels generated revenues of approximately \$469,000 from black sea bass, \$38,000 from other species co-harvested with black sea bass (on the same trips), and \$5,000 from trips in the South Atlantic on which no black sea bass were harvested or trips that occurred outside the South Atlantic regardless of the species caught. The average annual total revenue from all species landed by these vessels was approximately \$513,000, or \$22,000 per vessel. These vessels generated approximately 91.6 percent of their total fishing revenues from black sea bass, indicating their strong reliance on the species.

Based on the foregoing revenue information, all commercial vessels directly affected by the proposed rule may be considered small entities.

The proposed action for vermilion snapper would increase the commercial ACL, resulting in revenue increases of approximately \$724,000 in 2019, \$488,000 in 2020, \$324,000 in 2021, \$217,000 in 2022, and \$156,000 in 2023 and thereafter. Over a 5-year period (2019-2023), the net present value (using 7 percent discount rate) of revenue increases would be approximately \$1.8 million. Vessels that landed vermilion snapper using bandit gear may be expected to benefit more from the commercial ACL increase than those



using hook-and-line gear, because they generally accounted for most of the vermilion snapper commercial landings.

The proposed action for black sea bass would reduce the commercial ACL, resulting in revenue decreases of approximately \$0 in 2019, \$47,000 in 2020, and \$79,000 in 2021, and subsequent years. The net present value of revenue reductions would be approximately \$113,000 over 3 years (2019-2021), or \$239,000 over 5 years (2019-2023). Vessels using pots for harvesting black sea bass may be more adversely affected than those using other gear types, because black sea bass generally accounted for most of their total fishing revenues.

The negative revenue impacts on vessels harvesting black sea bass are considered minor. Relative to total revenues by vessels harvesting black sea bass, revenue reductions due to the reduced ACLs would be approximately zero in 2019, 0.38 percent in 2020, and 0.64 percent in 2021. One key feature of the black sea bass component of the snapper-grouper fishery is that landings have trended downward, falling to less than 50 percent of the current commercial ACL since 2015, so that the estimated negative revenue effects of the reduced ACL would less likely materialize. In the event landings significantly increase in the future and the estimated revenue reductions would

materialize, the proposed ACL would help prevent overfishing the black sea bass stock.

When combining both actions for both vermilion snapper and black sea bass, the net effect of the proposed rule would be an increase in revenue of approximately \$1.6 million over 5 years.

The information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have a significant economic impact on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 622**

Annual catch limits, Black sea bass, Fisheries, Fishing, South Atlantic, Quotas, Vermilion snapper.

Dated: February 12, 2019.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

**PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO,  
AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 622.190, revise paragraphs (a)(4)(i), (a)(4)(ii), and (a)(5) to read as follows:

**§ 622.190 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

(i) For the period January through June each year.

(A) For the 2019 fishing year—483,658 lb (219,384 kg), gutted weight; 536,860 lb (243,516 kg), round weight.

(B) For the 2020 fishing year—452,721 lb (205,351 kg), gutted weight; 502,520 lb (227,939 kg), round weight.

(C) For the 2021 fishing year—431,279 lb (195,625 kg), gutted weight; 478,720 lb (217,144 kg), round weight.

(D) For the 2022 fishing year—417,189 lb (189,234 kg), gutted weight; 463,080 lb (210,050 kg), round weight.

(E) For the 2023 and subsequent fishing years—409,225 lb (185,621 kg), gutted weight; 454,240 lb (206,040 kg), round weight.

(ii) For the period July through December each year.

(A) For the 2019 fishing year—483,658 lb (219,384 kg), gutted weight; 536,860 lb (243,516 kg), round weight.

(B) For the 2020 fishing year—452,721 lb (205,351 kg), gutted weight; 502,520 lb (227,939 kg), round weight.

(C) For the 2021 fishing year—431,279 lb (195,625 kg), gutted weight; 478,720 lb (217,144 kg), round weight.

(D) For the 2022 fishing year—417,189 lb (417,189 kg), gutted weight; 463,080 lb (210,050 kg), round weight.

(E) For the 2023 and subsequent fishing years—409,225 lb (185,621 kg), gutted weight; 454,240 lb (206,040 kg), round weight.

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(5) *Black sea bass*. (i) For the 2019 fishing year—276,949 lb (125,622 kg), gutted weight; 326,800 lb (148,234 kg), round weight.

(ii) For the 2020 fishing year—243,788 lb (110,580 kg), gutted weight; 287,670 lb (130,485 kg), round weight.

(iii) For the 2021 fishing year and subsequent fishing years—234,314 lb (106,283 kg), gutted weight; 276,490 lb (125,414 kg), round weight.

\* \* \* \* \*

3. In § 622.193, revise the first sentence of paragraph (e)(2) and revise paragraph (f)(2)(iv) to read as follows:

**§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

\* \* \* \* \*

(e) \* \* \*

(2) *Recreational sector.* The recreational ACL for black sea bass is 848,455 lb (384,853 kg), gutted weight, 1,001,177 lb (454,126 kg), round weight for the 2018-2019 fishing year; 367,119 lb (166,522 kg), gutted weight, 433,200 lb (196,496 kg), round weight for the 2019-2020 fishing year; 323,161 lb (146,583 kg), gutted weight, 381,330 lb (172,968 kg), round weight, for the 2020-2021 fishing year; and 310,602 lb (140,887 kg), gutted weight, 366,510 lb (166,246 kg), round weight, for the 2021-2022 and subsequent fishing years. \* \* \*

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(iv) The recreational ACL for vermilion snapper is 455,207 lb (206,478 kg), gutted weight, 505,280 lb (229,191 kg), round weight, for the 2019 fishing year; 426,090 lb (193,271 kg), gutted weight, 472,960 lb (214,531 kg), round weight, for the 2020 fishing year; 405,910 lb (184,118 kg), gutted weight, 450,560 lb (204,552 kg), round weight, for the 2021 fishing year; 392,649 lb (178,103 kg), gutted

weight, 435,840 lb (197,694 kg), round weight, for the 2022 fishing year; and 385,520 lb (174,869 kg), gutted weight, 427,520 lb (193,920 kg), round weight, for the 2023 and subsequent fishing years.

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